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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:

Harvey Garner III

Debtor(s)

Case No.: 17-11275

Chapter: 13

Hearing Date: 8/03/17

Judge Timothy A. Barnes

NOTICE OF MOTION

TO: Marilyn O. Marshall, Chapter 13 Trustee, 224 S Michigan, Ste 800, Chicago, IL 60604 by electronic notice through ECF
Harvey Garner III, Debtor(s), 7841 South Kingston Apt. 3, Chicago, IL 60649
Rheava Crockett, Mortgagor, 5419 S. Hoyne Ave, Chicago, IL 60609
David M Siegel, Attorney for Debtor(s), 790 Chaddick Drive, Wheeling, IL 60090 by electronic notice through ECF

PLEASE TAKE NOTICE that on the 8/03/17, at 9:30AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Timothy A. Barnes, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, room 744, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on July 24, 2017 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on July 24, 2017.

/s/ Peter C. Bastianen
Attorney for Movant

Berton J. Maley ARDC#6209399
Rachael A. Stokas ARDC#6276349
Gloria C. Tsotsos ARDC#6274279
Jose G. Moreno ARDC#6229900
Peter C. Bastianen ARDC#6244346
Joel P. Fonferko ARDC#6276490
Codilis & Associates, P.C.
15W030 North Frontage Road, Suite 100
Burr Ridge, IL 60527
(630) 794-5300
C&A FILE (14-17-04444)

NOTE: This law firm is a debt collector.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on July 24, 2017 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on July 24, 2017.

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES Deutsche Bank National Trust Company, as Trustee for Argent Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-W5, (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;

2. Movant holds a valid security interest in the property commonly known as 5419 S. Hoyne Ave, Chicago, Illinois 60609 ("Subject Property") by virtue of a note and mortgage signed by an individual named Rheava Crockett ("Mortgagor");

3. Debtor Harvey Garner III also holds a valid security interest in the Subject Property by virtue of a judgment recorded against the borrower Rheava Crockett (See attached recorded judgment in favor of Debtor Harvey Garner III);

4. Debtor Harvey Garner III is a named party-defendant in Movant's pending foreclosure proceeding due to the judgment lien against borrower Rheava Crockett. Thus stay relief is needed in order to proceed with state court remedies against the Subject Property;

5. Enforcement of Movant's security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 4/10/17;

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) Debtor has no equity in the Subject Property
- b) The Subject Property is not necessary to the Debtor's effective reorganization;
- c) Movant is not adequately protected;

7. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

8. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

\$850.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same
\$181.00 for Court filing fee

9. Ocwen Loan Servicing, LLC services the underlying mortgage loan and note for the property referenced in this Motion for Relief for Deutsche Bank National Trust Company, as Trustee for Argent Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-W5 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of Deutsche Bank National Trust Company, as Trustee for Argent Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-W5 (the noteholder). Deutsche Bank National Trust Company, as Trustee for Argent Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-W5 (the noteholder) has the right to foreclose because: Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

WHEREFORE, Deutsche Bank National Trust Company, as Trustee for Argent Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-W5 prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this July 24, 2017.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Peter C. Bastianen

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